

GUY M. WILLIS

IBLA 77-346

Decided June 8, 1977

Appeal from decision of the New Mexico State Office, Bureau of Land Management, requiring additional rental payment prior to issuance of noncompetitive oil and gas leases NM 28682, NM 28688.

Affirmed, and appeal dismissed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: Noncompetitive Leases -- Oil and Gas Leases: Rentals -- Regulations: Applicability

Where the Department, through a duly promulgated regulation, has increased the rental rate on all noncompetitive oil and gas leases issued after a specified date, such increased rate is applicable to all leases issued subsequent to that date, even though the lease offers were filed prior to the specified date.

APPEARANCES: Guy M. Willis, pro se.

OPINION BY CHIEF ADMINISTRATIVE JUDGE FRISHBERG

These appeals are from decisions of the New Mexico State Office, Bureau of Land Management (BLM), dated April 14, 1977, requiring Guy M. Willis (appellant) to pay additional advance rental for the first lease year on noncompetitive oil and gas leases NM 28682 and NM 28688, so as to comply with 43 CFR 3013.3-2, effective February 1, 1977, which sets the rental fee at \$1 per acre. 42 FR 1032.

On August 18, 1976, appellant filed offer to lease NM 28682, accompanied by payment of \$436.50, and on August 19, offer NM 28688, accompanied by payment of \$610, each payment being computed at the rate of 50 cents per acre for the land described. On April 14, 1977, BLM issued decisions rejecting each offer in part and requiring payment of additional advance rental of \$276.50 on NM 28682, and of

\$8 on NM 28688, in order to bring the advance rental to a total of \$1 per acre pursuant to the amendment of 43 CFR 3103.3-2, effective February 1, 1977.

Appellant contends that his leases should be issued under the terms in effect prior to February 1, 1977, that is, at the former rate of 50 cents per acre under which he had made the filings. He argues that it is unjust discrimination to make him pay at the higher rate when others have received leases at the old rate in response to offers filed during the same time span.

By letter of May 24, appellant withdrew his appeal relating to NM 28688 and submitted evidence of payment of the required increase in rental. The appeal in that case must, therefore, be dismissed. This action by Willis, however, leaves in effect his appeal as to NM 28682.

[1] The precise issue raised in this appeal came first before this Board in Raymond M. Joeckel, 29 IBLA 170 (1977). The conclusion in that decision has been affirmed repeatedly. See, e.g., Milton J. Lebsack, 29 IBLA 316 (1977); Doris N. Sterkel, 30 IBLA 39 (1977); and Jary J. Hunnicutt, 30 IBLA 86 (1977). After a thorough review of the law, those decisions held that a lease granted after February 1, 1977, must be at the rate provided for in 43 CFR 3103.3-2, as amended effective February 1, 1977. For the reasons stated in those decisions, appellant was properly required to pay the rental of \$1 per acre as set out in the amended regulations.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal as to NM 28688 is dismissed and the decision pertaining to NM 28682 is affirmed.

Newton Frishberg
Chief Administrative Judge

We concur:

Joan B. Thompson
Administrative Judge

Douglas E. Henriques
Administrative Judge

